



UNITED STATES MARINE CORPS

MARINE CORPS AIR STATION
CHERRY POINT, NORTH CAROLINA 28533-5001

AirStaO 12810.1A
~~EN~~ G-1 (FECA)
30 Mar 1989

AIR STATION ORDER 12810.1A w/ch1

From: Commanding General
To: Distribution List

Subj: Federal Employees Compensation Act (FECA)

Ref: (a) AirStaO 12810.2

Encl: (1) Responsibility and Procedures for Injured Employee
(2) Responsibility and Procedures for Supervisor

1. Purpose. To disseminate information and local procedures concerning benefits under the Federal Employees' Compensation Act (FECA) as administered by the U.S. Department of Labor, Office of Workers' Compensation Programs (OWCP).

2. Cancellation. AirStaO 12810.1.

3. Legal Basis. The legal basis for the injury compensation program is the FECA (5 USC §8101, et seq), which is explained in the ~~Federal Personnel~~ OWCP ~~Manual, Chapter~~ 810. Benefits provided under the FECA constitute the sole remedy against the United States Government for work-related injury or death. A Federal employee or surviving dependent is not entitled to sue the United States Government or recover damages for such injury or death under any other statute.

4. Background. The FECA provides payment of compensation for wage loss and for permanent impairment of specified members and functions of the body. Eligible employees are entitled to receive, at reasonable expense to the U.S. Government, medical and related services made necessary by the medical condition or conditions accepted as being employment related. In appropriate cases, vocational rehabilitation services shall be provided, as well as payment of monetary compensation to specified survivors of an employee whose death is the result of an employment-related injury and for payment of certain burial expenses. "Injury" means a wound or condition of the body induced by accident or trauma, and includes a disease or illness proximately caused by the employment for which benefits are provided under the Act.

5. Definitions

a. Traumatic Injury. This injury is defined as a wound or other condition of the body caused by external force, including physical stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected. The injury must be caused by a specific event, or incident, or series of events, or incidents within a single day or work shift. Traumatic injuries also include damage or destruction to prosthetic devices or appliances, exclusive of eyeglasses and hearing aids unless the eyeglasses and

hearing aids are damaged incidental to a personal injury requiring medical services. (Personal property claims can only be made under the Military Personnel and Civilian Employees' Claims Act, 31 U.S.C. 240).

b. Occupational Disease or Illness. A condition caused by systemic infections, continued or repeated stress or strain, exposure to toxins, poisons, fumes, etc., or other continued and repeated exposure to conditions of the work environment over a longer period than one (1) work day or shift.

c. Disability. Disability means the incapacity, because of employment injury, to earn the wages the employee was receiving at the time of the injury.

d. Temporary Aggravation. Temporary aggravation means that factors of employment have directly caused an underlying or pre-existing condition, disease or illness to be more severe for a definite limited period of time and thereafter leaves no greater impairment than existed prior to the employment injury..

e. Permanent Aggravation. Permanent aggravation occurs when a condition will persist indefinitely due to the effects of the work related injury or when a condition is materially worsened by a factor of employment such that it will not return to the preinjury state.

f. Impairment. Impairment means any anatomic or functional abnormality or loss. A permanent impairment is any such abnormality or loss after maximum medical improvement has been achieved.

g. Duly Qualified Local Physician. The term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners. Reimbursable services of a chiropractor are limited to treatment consisting of manual manipulation of the spine to correct a subluxation that is demonstrated by x-ray to exist. The term does not include medical care rendered by any other than the type of practitioners listed above. The word "local" generally means within 25 miles from the employing agency or the employee's home.

h. Recurrence. A recurrence is defined as a spontaneous return or increase of disability due to a previous injury or occupational disease without intervening cause, or a return or increase of disability due to a consequential injury. A recurrence is distinguished from a new injury by the criterion that in a recurrence no event other than the previous injury accounts for the disability. The period for using remaining COP days for recurrence of disability is ninety (90) days after the first return to duty date.

6. Statutory Time Requirements. An employee is required to give his or her supervisor written notice of injury immediately but not later than thirty (30) days after an injury or illness in the performance of duty. Someone acting on their behalf may give written report on Form CA-1 or Form CA-2. For injuries and deaths on or after September 7, 1974, the law provides that a claim for compensation must be filed within three (3) years of the injury or death. If the claim is not filed within three (3) years, compensation may still be

allowed if written notice of injury was given in thirty (30) days or the immediate supervisor had actual knowledge of the injury or death within thirty (30) days after occurrence. This knowledge must consist of written records or verbal notification; an entry into an employee's medical record may also satisfy this requirement if it is sufficient to place the agency on notice of a possible work-related injury or illness.

7. Responsibilities

a. The Office of Workers' Compensation Programs (OWCP), Employment Standards Administration, U.S. Department of Labor, is responsible for the administration of the FECA. The OWCP district offices adjudicate the claims arising within their respective areas of jurisdiction. (For the State of North Carolina, the Jacksonville, Florida, office has jurisdiction).

(1) Fact of injury. In determining "fact of injury" the OWCP Claims Examiner has to resolve two key issues: 1. Whether the injury is traumatic, an occupational disease, aggravation, precipitation, or acceleration of a pre-existing condition; and 2. Whether the incident being reported in fact occurred in the time, place, and manner alleged.

(2) The Federal Employees' Compensation Act requires that OWCP issue a decision with respect to entitlement containing findings of fact and based on consideration of the claim presented by the claimant, the report by the supervisor, and the completion of such investigation as the Office may deem necessary. If a claim is denied, OWCP will issue a letter of decision containing findings of fact and a statement of reasons along with information on the right to a hearing, reconsideration, and appeal rights to the Employees' Compensation Appeals Board. It will be mailed to the claimant's last known address and their representative if any. The same rights will be extended if dissatisfied with a decision.

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b. The ~~Employee Services Branch, Civilian Personnel Department~~, is responsible for processing all claims acting as link between the Agency and OWCP; assuring that forms are properly completed and submitted to the OWCP; and for assisting and advising both management and employees of the regulations contained in Federal Personnel Manual, Chapter 810.

c. The responsibilities of the employee and supervisor are outlined in enclosures (1) and (2).

d. The Occupational Health Clinic (OHC) is responsible for providing initial treatment for all injuries/illnesses. The employee will be given the choice of treatment by the Occupational Health Physician or a duly qualified private physician. If an election is made for treatment by a private physician, the OHC will secure an appointment for the employee and issue a Form CA-16 (Request for Examination and/or Treatment). The injured employee will be given a Release of Medical Information Form (MCAS 5263/1(2-80)).

8. Benefits

a. Medical Care. An injured employee is entitled to first aid and medical care for an injury/illness sustained on-the-job, if needed. Regulations preclude private physicians or medical providers from seeking

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reimbursement from the employee (patient) for medical charges not paid by OWCP as a result of the medical fee schedule of maximum allowable charges for medical procedures and services under the FECA. The regulations have been modified to require OWCP to advise the provider of the maximum allowable fee for services, and request that the provider reimburse the injured worker for that amount above the allowable fee or provide justification for the additional charge. No payment or reimbursement will be made if bill is submitted more than one year beyond the calendar year in which the expense was incurred or the case was first accepted, whichever is later.

b. Choice of Own Physician. The employee may choose a private physician, however, the physician must be within an area of twenty-five (25) miles of the employing establishment or employee's home. If a change of physicians is desired, after the initial choice, he/she must contact OWCP in writing for approval and include reasons for requesting the change.

c. Continuation of Pay (COP) - Traumatic Injury Only. An employee who has filed a claim for a job-related traumatic injury is entitled to continuation of pay (COP) not to exceed (NTE) 45 calendar days, if medically necessary. The 45-day period starts with the first day or shift following the date or shift of injury during which the claimant is disabled, provided the disability begins within ninety (90) days of the occurrence of the injury. Temporary employees are entitled to COP on the same basis as permanent employees, but COP may not be paid after a termination date that was established prior to the injury. This means that COP may not continue past the NTE date shown on the employee's appointment SF-50, the NTE date shown on an extension of appointment SF-50 (or SF-52 that was approved prior to the injury), or the effective date shown on a termination SF-52 that was approved prior to the injury. A claim for compensation may be filed if disability continues beyond that date. He/she may also elect to use accumulated sick leave or annual leave instead of claiming COP. An election to use annual leave or sick leave is not irrevocable and an employee may subsequently request COP in lieu of previously requested annual leave or sick leave. Regulations limit an employee's right to request change from leave to COP to within one year of date leave used, or date claim is accepted, whichever is later.

d. Compensation. An employee who suffers an employment-related disability may be eligible for one or more types of wage loss compensation. Compensation based on loss of wages is payable after the end of continuation of pay where entitlement exists or from the beginning of pay loss. A 3-day waiting period, for which no compensation is payable, applies except in cases where disability extends more than 14 days. Form CA-7 (Claim for Compensation) may be obtained from the ~~Employee Services Branch~~.

FECA Office

e. Buy Back of Leave. To avoid possible interruption of income once COP expires, an employee may elect to use sick and/or annual leave during a period

of absence. If the case is accepted by the OWCP, application may be made to buy back all or part of leave used. The OWCP would pay a part of the buy back cost (maximum of 75%) and the employee would pay the difference. If regular annual leave is bought back, which is reccredited to a prior leave year, and the reccredit causes a leave balance at the end of that leave year which is in excess of the maximum authorized accumulations (usually 240 hours), the excess

leave will immediately be forfeited as of the beginning of the leave year following the year to which it is recredited.

9. Termination/Forfeiture of COP. Where pay is continued after an employee stops work due to a disabling traumatic injury, such pay shall be terminated if:

a. Within 10 days after the date the employee submits claim for COP, including such claim for a recurrence of disability, the employing agency has not received medical evidence that the employee sustained a disabling traumatic injury (exception: in the absence of medical evidence, COP shall be continued without interruption, if the official superiors are satisfied after investigation that the employee sustained a disabling traumatic injury). Where medical evidence is received by the agency more than 10 work days after claim is made for COP, the agency shall continue the employee's pay retroactive to date of termination provided the medical evidence supports injury-related disability beyond the 10-work-day period, and restore to the employee's account any annual or sick leave used during that period.

b. The agency receives evidence that the attending physician has found the employee no longer disabled (i.e. the employee can perform the duties of the position held at the time of injury); or

c. Evidence is received that the attending physician has found the employee to be partially disabled and the employee refuses suitable work which has been offered by the agency or fails to respond to such offer within 5 work days of receipt of the offer; or

d. The employee's scheduled period of employment expires or employment is otherwise terminated, provided the date of termination of employment is established prior to the date of injury; or

e. Receipt of notification from OWCP that pay should be terminated; or

f. The 45-day COP period expires.

10. Controversion. The supervisor may controvert (oppose) a claim by completing the back of a Form CA-1 (item 42), and submitting a detailed, separate narrative report in support of the controversion. It is the supervisor's responsibility to provide all information available to ensure sound and accurate adjudication by the OWCP.

a. The supervisor must controvert a claim and terminate COP on the basis of information submitted or secured on investigation, if:

- (1) The disability is caused by an occupational illness/disease; or
- (2) The employee is an individual selected pursuant to Chapter 121 of Title 28 and serving as a petit or grand juror and who is not otherwise an employee of the U.S. or the type employee defined by 10.5 (A) (11) (ii) or (iv); or
- (3) The employee is neither a citizen nor a resident of the U.S. or Canada; or

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- (4) The injury occurred off the employing agency's premises and the employee was not performing official duties; or
- (5) The injury was caused by the employee's willful misconduct, or the employee's intent to kill or injure himself or herself or another person, or was approximately caused by the employee's intoxication by alcohol or illegal drugs; or
- (6) A written claim (CA-1) was not filed within 30 days after the date of injury; or
- (7) The employee first stopped work as a result of the injury more than 90 days following the injury; or
- (8) The employee reports the injury after employment has terminated; or
- (9) The employee is enrolled in the Civil Air Patrol, Peace Corps, Job Corps, or another similar group.

b. If for reasons other than those listed above, it is believed that the employee is not entitled to COP, the agency may controvert, however, pay must be continued and not interrupted during the 45-day period unless the controversion is sustained by OWCP and the agency is so notified; or unless entitlement ceases under section 8 of this order entitled "termination/forfeiture of COP."

11. Charging COP days when an employee is in a light duty status. OWCP has determined that COP is chargeable only when there is a formal assignment to an established job which is normally paid at a lower salary and would otherwise result in loss of income to the employee. An employee must be furnished documentation of the personnel action prior to the effective date of the action in order for the time spent on light duty to be chargeable to COP. If the employee is assigned or detailed to an identified position for which a position description exists which is classified at a lower salary level than that earned by the employee when injured, documentation employee must receive is an SF-52. If the detail extends beyond thirty (30) days, the employee must receive an SF-50. If detailed or assigned to a lower grade or lower rate of basic pay, documentation should be an SF-50. When the SF-52 is used to document the personnel action, it must include the pen and ink signature of the appropriate authority in Part C, Item 2.

12. Light Duty-Return to Work Program. It is the Department of Navy policy that no employee who is able to work will be placed on COP or be permitted to remain on injury compensation if light duty can be made available. This Command is committed to accommodating employees injured in the performance of duty in order to return them to work as soon as medically feasible. Concerted support at all levels of management is required to maintain an effective Return-To-Work Program. Reference (a) provides specific guidance concerning this program.

13. When Employee Cannot Return to Duty. If at the end of one year in receipt of compensation, a review of the case indicates the employee cannot return to work or an alternative position can not be found; appropriate steps

will be taken to separate the employee. Prior to separation, an employee will be advised of any entitlement to retirement benefits.

14. Penalties. Any employee, beneficiary, supervisor, representative or other person who knowingly makes or knowingly certifies to any false statement, misrepresentation, concealment of fact, or any other act of fraud with respect to a claim under the act or who knowingly accepts compensation payments to which they are not entitled is subject to criminal prosecution and may be punished by a maximum fine of no more than \$10,000.00 or imprisonment for no more than five years or both (or \$10,000 and ten years for conspiracy to commit fraud). Any person charged with the responsibility for making reports in connection with an injury who willfully fails, neglects, or refuses to do so; induces, compels, or directs an injured employee to forgo filing a claim; or willfully retains any notice, report, or paper required in connection with an injury is subject to a fine of no more than \$500 or imprisonment for no more than one year, or both.

15. Concurrence. The Commanding Officer, Naval Aviation Depot, and the Commanding Officer, Naval Hospital, concur with this order inasmuch as it pertains to employees of their command.


G. B. HAMMOND
Chief of Staff

DISTRIBUTION: ~~X~~ A-2



UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION
PSC BOX 8003
CHERRY POINT, NORTH CAROLINA 28533-0003

AirStaO 12810.1A Ch 1
G-1 (FECA)
7 May 96

AIR STATION ORDER 12810.1A Ch 1

From: Commanding General
To: Distribution List

Subj: FEDERAL EMPLOYEES' COMPENSATION ACT (FECA)

1. Purpose. To direct pen changes to the basic Order.

2. Action

a. On the promulgation page, change the originator's office code to read "G-1 (FECA)" vice "CPL."

b. In paragraphs 3 and 7b, delete the words "the Federal Personnel Manual, Chapter 810" and insert the words "OWCP Publication CA-810."


c. In paragraph 7b, delete the words "Employee Services Branch, Civilian Personnel Department" and insert the words "FECA Office, G-1 Department."

d. In paragraph 8d; paragraph d of enclosure (1); and paragraphs f, g, k, l, and m of enclosure (2); delete the words "Employee Services Branch" and insert the words "FECA Office."

e. On page seven, change DISTRIBUTION to read "A-2."

f. In the second line of paragraph e of enclosure (1), delete the words "Employee Services Branch, Compensation Section, Building 80" and insert the words "FECA Office, G-1 Department, Room 233, Building 198."

3. Filing Instructions. File this Change transmittal immediately behind the signature page of the basic Order.


W. W. SCHEFFLER
Chief of Staff

DISTRIBUTION: A-2

RESPONSIBILITY AND PROCEDURES FOR INJURED EMPLOYEES

a. Immediately report each injury/illness to the supervisor and request a Form CA-1 (Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation) or Form CA-2 (Federal Employee's Notice of Occupational Disease and Claim For Compensation).

b. Secure from the supervisor a Form 5100/9 (Dispensary Permit) before visiting the OHC (or the Naval Hospital when the OHC is closed) for treatment. If a private physician is selected, written approval must be obtained from the OWCP before a change of physician is made. Obtain Form CA-17 from immediate supervisor and ensure completion of items 10 through 21 by the attending physician and return it at the beginning of the next scheduled work day. If unable to personally return the completed Form CA-17, ensure delivery at the beginning of the next scheduled work shift. Medical evidence of a disabling injury must be provided within ten (10) work days or COP may be terminated.

c.. If unable to perform light duty or light duty is not available, ensure that the attending physician completes a Form CA-17 biweekly.

d. The employee has the responsibility of assuring that all medical reports from private physicians are submitted to OWCP via Employee Services Branch. This report may be made on Form CA-16 or CA-20 or 20A (obtained from the OHC or the ~~Employee Services Branch~~).

F E C A Office

F E C A Office

e. Report a recurrence of injury to the supervisor immediately. After treatment at the OHC the employee is to visit the ~~Employee Services Branch~~, Compensation Section, Building 80, for advice and other appropriate forms to be completed.

f. Burden of Proof. The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the claimed condition and the disability, if any, was caused, aggravated, or adversely affected by Federal employment. The fact that a condition or disease manifests itself during a period of Federal employment by itself does not raise an inference that there is casual relationship between the two.

g. Obligation to return to work. A claimant whose disability has ceased has the responsibility to return to work via the OHC. A letter both to the employee and physician outlining the agency's willingness to accommodate is provided along with form CA-17. The employee shall so advise the physician and request the physician to specify the limitations and restrictions imposed by the injury/illness. Therefore, the employee has the responsibility to advise the supervisor immediately of the limitations and restrictions imposed. If suitable light duty is offered, the employee is obligated to return to such employment. Where an employee has been advised in writing of the existence of a specific alternative position along with a job description and physical requirements, the attending physician should review and determine if the offer is suitable. A partially disabled employee who, without showing sufficient reason or justification, refuses or neglects to work after suitable work has been offered is not entitled to further COP or compensation but may be entitled to medical benefits. An opportunity will be given to make a showing of sufficient reason or justification before a determination is made.

ENCLOSURE (1)

SUPERVISOR'S RESPONSIBILITY

a. Upon receiving notice that an employee has suffered an employment related traumatic injury, promptly authorize medical care, if needed, by giving the employee a dispensary permit (OPNAV 5100/9) and CA-17 (Duty Status Report) package to take to the Occupational Health Clinic or to the Naval Hospital (unless physical condition will not permit).

b. Provide the employee with Form CA-1 (Notice of Traumatic Injury) for reporting the injury. If incapacitated, this action may be taken by someone acting on his/her behalf, including a family member, union official, representative, or agency official. The form must contain the original signature of the person giving notice.

c. Review the front of the form for completeness and accuracy, and assist the employee in correcting any deficiencies found. Complete and sign the reverse of the form indicating a telephone number where you can be reached. Return to the employee the "Receipt of Notice of Injury".

d. Fully advise the employee of the right to elect continuation of regular pay (COP)/traumatic leave, or use annual or sick leave. Inform whether COP will be controverted, and, if so, whether pay will be terminated and the basis for the controversion.

e. Fully advise the employee that medical evidence of a disabling traumatic injury must be submitted within ten work days of the date disability begins or COP may be terminated. Provide Form CA-17 package to disabled employee bi-weekly and require the return of the completed form at the beginning of the next scheduled work shift after visit to physician. If COP has been terminated, reinstate retroactively upon receipt of required evidence.

f. Promptly call the ~~Employee Services Branch~~ ^{FECA Office} and the Safety Officer to report the injury.

g. Submit Form CA-1 within one day of injury along with detailed explanation, if controverted. The Supervisor should thoroughly investigate each reported injury to assist OWCP in properly adjudicating each claim:

- Obtain and carefully review, factual and medical evidence available;

- Look at the evidence to determine whether the behavior immediately following the injury is consistent with the alleged occurrence;

- Look for inconsistencies in how an injury occurred (failure to mention the injury to anyone; possibility of similar disability having occurred prior to alleged injury; history of injuries coming at the start/end of 3-day weekends, legal holidays, vacations, etc.);

- Contact ~~Employee Services Branch~~ ^{FECA Office} for assistance in controverting if needed.

h. Inspect worksite where injury/illness occurred to determine what actions are warranted to prevent others from getting hurt.

ENCLOSURE (2)

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i. Require completion of SF-71 (leave slip) for a request for leave (sick, annual, traumatic leave, or leave without pay) with physician's certification on reverse. Initiate SF-52 if LWOP exceeds 30 days. Normally, no more than four hours of COP/leave is allowed for doctor visits or treatment.

j. If an employee has a recurrence of disability, send employee to the OHC and the ~~Employee Services Branch~~ for completion of Form CA-2a (Notice of Recurrence). *FECA Office*

k. Upon receiving notice that an employee has suffered an occupational disease or illness, the employee should be sent to the Occupational Health Clinic if medical treatment is needed. He/she should also be sent to the ~~Employee Services Branch~~ to obtain a Form CA-2 (Notice of Occupational Illness) and be given specific instructions as related to occupational disease or illness. *FECA Office*

l. If it appears that an injury or death for which benefits are payable under the Act was caused under circumstances creating a legal liability upon a person or persons other than the United States to pay damages, the third party aspect should be investigated and a report of findings submitted along with appropriate Notice of Injury/Illness form. For advice, please contact the ~~Employee Services Branch~~. *FECA Office*

m. In the event of death, immediately contact the Occupational Health Clinic or Naval Hospital. A call must be made to the Safety Officer and the Employee Services Branch for additional instructions.

ENCLOSURE (2)